

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 37 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and Sd/-

MR.JUSTICE A.R.DAVE

Sd/-

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? Yes

2. To be referred to the Reporter or not? No

3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?
No

COMMISSIONER OF WEALTH-TAX

Versus

INDUKUMAR C PATEL

Appearance:

MR BB NAIK FOR MR MANISH R BHATT for Petitioner
Respondent No. 1 SERVED

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE A.R.DAVE

Date of decision: 02/09/98

ORAL JUDGEMENT

(Per R.K.Abichandani, J.)

The Income Tax Appellate Tribunal has referred

the following question for the opinion of this Court under Section 27 (1) of the Wealth Tax Act, 1957:

"Whether the Appellate Tribunal is right in law and on facts in holding that the gratuity liability not provided in books is required to be deducted for the purpose of working out the break-up value of shares under Rule 1-D of the Wealth Tax Rules, 1957?"

2. The Appellate Tribunal dismissed the appeal of the Revenue holding that the gratuity liability was required to be deducted for the purpose of working out the break-up value of shares under Rule 1-D of the Wealth Tax Rules, 1957.

3. We have now the benefit of the decision of the Apex Court in BHARAT HARI SINGHANIA v. C.W.T. reported in 207 ITR 1 in which the Supreme Court while construing the provisions of Rule 1-D of the Wealth Tax Rules, 1957, held that the said Rule was required to be followed in every case where unquoted equity shares of a company (other than an investment company or a managing agency company) have to be valued and that all the authorities under the Act including the Valuation Officer were bound by the said Rule. It was further held that while valuing the unquoted equity shares under Rule 1-D, no deductions on account of capital gains tax which would have been payable in case the shares were sold on the valuation date can be made. Similarly, no other deductions including provision for taxation, provident fund and gratuity are admissible. It was held that Rule 1-D was exhaustive on the subject.

4. In view of the decision of the Supreme Court in BHARAT HARI SINGHANIA v. C.W.T. (supra), we hold that the Tribunal was in error in holding that the gratuity liability not provided in books was required to be deducted for the purpose of working out the break-up value of shares under Rule 1-D of the Wealth Tax Rules, 1957. The question referred to us is, accordingly, answered in the negative in favour of the Revenue and against the assessee. The Reference stands disposed of accordingly with no order as to costs.

Sd/-

[KMG Thilake]

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